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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTHONY PERKINS,

11 Civ. 3855 (JGK)

Petitioner,

MEMORANDUM OPINION
AND ORDER

- against -

THOMAS LAVALLEY,

Respondent.

JOHN G. KOELTL, District Judge:

The Court has received the attached pro se petitioner's application for appointment of counsel. The petitioner's request to appoint counsel is denied without prejudice to renewal for failure to make the required showing at this time.


The petitioner requests the appointment of counsel to assist with his petition for habeas corpus pursuant to the Court's discretionary authority under the Criminal Justice Act. See 18 U.S.C. § 3006A(A)(2)(B) ("Whenever the . . . court determines that the interests of justice so require, representation may be provided for any financially eligible person" seeking habeas corpus"). "A determination thereon requires a close examination and evaluation of certain factors such as the likelihood of success on the merits, the complexity of the legal issues raised by the complaint and the ability of the indigent (here, petitioner) to investigate and present the case." Shaird v. Scully, 610 F.Supp. 442, 444 (S.D.N.Y. 1985);

Gonzalez v. New York, 2006 WL 728482, at *1 (S.D.N.Y. 2006) (same); cf. Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986) (with regard to indigent civil litigants seeking counsel under 28 U.S.C. § 1915, similar factors apply, and petitioner must, as a threshold matter, demonstrate that his claim has substance or a likelihood of success on the merits, in order to make sufficient showing).

Here, the petitioner's application makes no such showing as to any likelihood of success on the merits, the complexity of the legal issues raised in the habeas petition, or the petitioner's own ability to prosecute his case. Accordingly, the petitioner's application is dismissed without prejudice to renewal.

SO ORDERED.

Dated: New York, New York
September 7, 2011



John G. Koeltl
United States District Judge

Anthony Perkins
Petitioner

- against -

Thomas Le Kelly,
Respondent,

Application for the Court to
Request Counsel.
Pursuant to 18 U.S.C. § 3006A(g)

PRO SE OFFICE

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11 CIV 3855 (JGH/JCH)

I, Anthony Perkins, am the party in this case and am unable to afford the service of an attorney, I hereby request the Court to grant my request for counsel to represent me in this Proceedings.

1. In support of my application, I provide the following -
A. I am in need of proper representation and I do not have the necessary funds to obtain counsel. I can not proceed because of my limited knowledge of the Courts procedure in these matters.

2. I have previously filed a request to Proceed-In-Forme Perkins application in this proceedings. And it is a true and correct representation of my current

Financial Status.

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3. I understand that if a lawyer volunteers to represent me and that lawyer learns that I can afford to pay for a lawyer, the lawyer may give this information to the Court.